

# California State Senate

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HEALTH

July 17, 2008

Dr. Karl Longley, Chair, and Members  
Central Valley Regional Water Quality Control Board  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

## SUBJECT: CITY OF PLACERVILLE—MANDATORY MINIMUM PENALTIES

Dear Dr. Longley and Members of the Board:

As you know, I have been very concerned for some time about the harsh impact of the California's Mandatory Minimum Penalty law on small communities in my District and throughout the state. Recently, I learned that the Central Valley Regional Water Quality Control Board has issued an administrative civil liability complaint against the City of Placerville seeking \$275,000 in penalties (ACL R5-2008-0522.). In this difficult economic climate, the proposed penalty would cost *each ratepayer* in the City approximately \$2,750.00. The purpose of this letter is to urge your Board to exercise the flexibility and discretion provided under the law to relieve the City from the burden of these penalties.

In enacting the MMP statute, the California Legislature recognized that it would be fundamentally unfair to require ratepayers in small financially disadvantaged communities to pay penalties on top of the significant costs of compliance. For this reason, the law provides an alternative to assessment of monetary fines against public wastewater treatment plants serving less than 10,000 people. (Water Code section 13385(k).) These communities may direct an equivalent amount to a project designed to bring the treatment plant into compliance and avoid future violations.

The City of Placerville is in the process of a \$45 million upgrade of its treatment plant. The violations that have occurred at the plant could not have been avoided, and your Board recognized that the City needs additional time to complete the improvements by issuing the City a revised permit and time schedule earlier this year. Despite this, the Board staff has issued a complaint seeking penalties. I understand that the City has requested that it be allowed to satisfy the \$275,000 in proposed penalties with money expended on the treatment plant upgrade, and I urge the Board to grant this request.

*Please include our reference number on all correspondence*

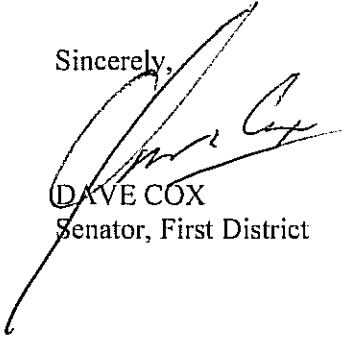
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Given the Legislature's intent to avoid exacerbating the significant fiscal burdens already facing small communities, I believe the statutory exception to MMPs for small communities should be interpreted in the light most favorable to the City. Apparently, a staff person at the State Water Board has concluded that the City's population is over 10,000 by estimating a population of 10,058. It is of great concern to me that this "estimate" is being used to deny the City relief. Estimating population is not an exact science, and surely any method used to calculate population is subject to a margin of error. Even a one percent margin of error would mean that the City's population could be less than 10,000.

In light of this ambiguity, the Regional Water Board has the discretion to conclude that the City is eligible for a small community compliance project. A decision to allow the penalty to be satisfied by the comprehensive \$45 million upgrade is consistent with legislative intent and is necessary to effectuate the just and fair implementation of the MMP law. I urge you to grant the City's request and resolve this matter.

Thank you for your consideration of this request. If I can be of any further assistance to you or if you have any additional questions or comments, please feel free to call me. I can be reached at the office at (916) 651-4001.

Sincerely,



DAVE COX  
Senator, First District

DC: ro  
CC: Mayor, City of Placerville